UNITED STATES PATENT AND TRADEMARK OFFICE

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10/687,055	10/15/2003	David J. Buckley	2895P	7523

7590 02/19/2008	EXAMINER
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1201 West Peachtree Street	2154	
Atlanta, GA 30309		

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

	Application No.	Applicant(s)
	10/687,055	BUCKLEY, DAVID J.
Office Action Summary	Examiner	Art Unit	
	JOSHUA JOO	2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>15 November 2007</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1, 3-15, 17-28</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1,3-15 and 17-28</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>15 October 2003</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

Detailed Action

1.   This Office action is in response to communication dated 11/15/2007.

Claims 1, 3-15, 17-28 are presented for examination.

Response to Arguments

2.   Applicant's arguments with respect to claims 1, 3-15, 17-28 have been considered but are moot in view of the new ground(s) of rejection. New ground(s) of rejection are necessitated by Applicant's amendment.

Examiner's Note

3.   After reviewing Applicant's specification, it appears that the claimed "computer readable medium" is intended to comprise only physical/hardware embodiments and will be considered as a physical medium during examination of the application. If Applicant disagrees with Examiner's interpretation, Applicant is requested to bring forth any objection(s) and clarify Applicant's intentions.

Specification

4.   The specification is objected to as failing to provide proper antecedent basis for the originally claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required:

    i)   Regarding claim 8, "the computer-readable storage medium".

Claim Rejections - 35 USC § 103

5.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6.   Claims 1, 3-15, 17-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sato et al. US Publication #2002/0062268 (Sato hereinafter), in view of Ross et al. US Patent #6,792,244 (Ross hereinafter).

7.   ' As per claims 1 and 15, Sato teaches substantially the invention as claimed including a method and computer readable medium for submitting ratings for an "item", comprising the steps of:

a) receiving a rating for the "item" by a wireless device (Paragraph 0058. User specifies rating for item. Paragraph 0211. Client can be a terminal capable of mobile communications.); and

b) sending the rating from the wireless device to a server (Paragraphs 0084; 0086. Client transmits rating value.);

c) receiving the rating from the wireless device by the server (Paragraph 0088. Receive rating request.);

d) determining if a database coupled to the server is storing a previous rating for the "item" from the wireless device (Paragraph 0088. Input rating value for received client identifier. A rating value for item identifier already recorded may be determined.);

e) replacing the previous rating with the received rating, if the database is storing the previous rating, to prevent skewing of a composite rating for the "item" (Paragraph 0088. Rewrite rating value to the latest rating.).

8.   Sato teaches of submitting a rating for an "item", wherein the "item" may comprise various content (Paragraph 0052) but does not specifically teach that the "item" is a wireless device application.

9.   ' Ross teaches a system for collecting opinions of applications, wherein a type of rating for a wireless device application is sent from a wireless device (col. 3, lines 21-25; col. 4, lines 1-7, 36-41).

10.   It would have been obvious to one of ordinary skill in the art at the time the invention was made

to combine the teachings for the "item" in which the rating is submitted as taught by Sato to comprise a

wireless device application for the wireless device as taught by Ross. The combined teachings would

yield a predictable result of increasing the amount of data collect regarding user preference and allowing

Sato's system to increase recommended item information that is available for users including information

for wireless device applications. Furthermore, because both references teach methods of collecting

evaluation information, it would have been obvious to substitute an "item" of Sato with the wireless

device application of Ross to achieve a predictable result of collecting evaluation information regarding

the items. Lastly, Ross's method to provide rating for wireless device applications would ensure that

users actually used or possessed certain items, which would increase the relevancy of feedbacks.

11.   As per claims 10 and 24, Sato teaches substantially the invention as claimed including a method

and computer readable medium for obtaining ratings for a wireless device application, comprising the

steps of:

        a) receiving a packet from a wireless device, wherein the packet comprises a rating for the "item"

(Paragraphs 0084; 0086. Receive rating value transmitted by client. Paragraph 0211. Client can be a

terminal capable of mobile communications.);

        b) determining if a database is storing a previous rating for the "item" from the wireless device

(Paragraph 0088. Input rating value for received client identifier. A rating value for item identifier

already recorded may be determined.);

        c) replacing the previous rating with the rating in the packet, if the database is storing the

previous rating, to prevent skewing of a composite rating for the "item" (Paragraph 0088. Rewrite rating

value to the latest rating.); and

d) inserting the rating in the packet, a unique identifier for the wireless device and an "item" identifier for the "item" into the database, if the database is not storing the previous rating (fig. 6; paragraph 0088. Record rating value associated with client and item identifiers.).

12.   Sato teaches of submitting a rating for an "item", wherein the "item" may comprise various content (Paragraph 0052) but does not specifically teach that the "item" is a wireless device application.

13.   Ross teaches a system for collecting opinions of applications, wherein a type of rating and identity for a wireless device application are sent from a wireless device and stored on a server (col. 3, lines 21-25; col. 4, lines 1-7, 36-41; col. 5, lines 50-54).

14.   It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings for the "item" in which the rating is submitted as taught by Sato to comprise a wireless device application for the wireless device as taught by Ross, and to store the rating and identifier of the wireless device application as taught by Ross. The combined teachings would yield a predictable result of increasing the amount of data collect regarding user preference and allowing Sato's system to increase recommended item information that is available for users including information for wireless device applications. Furthermore, because both references teach methods of collecting evaluation information, it would have been obvious to substitute an "item" of Sato with the wireless device application of Ross to achieve a predictable result of collecting evaluation information regarding the items. Lastly, Ross's method to provide rating for wireless device applications would ensure that users actually used or possessed certain items, which would increase the relevancy of feedbacks.

15.   As per claims 13 and 27, Sato teaches substantially the invention as claimed including a method and computer readable medium for submitting ratings for a wireless device application, comprising the steps of:

a) receiving a rating for the "item" by a wireless device (Paragraph 0058. User specifies rating for item. Paragraph 0211. Client can be a terminal capable of mobile communications.);

b) creating a packet comprising the rating, a unique identifier for the wireless device, and an "item" identifier for the "item" (Paragraphs 0083-0084. Client identifier, item identifier, and the rating value.);

c) sending the packet to a server (Paragraphs 0084; 0088. Send client identifier, item identifier, and the rating value.);

d) determining if a database coupled to the server is storing a previous rating for the "item" from the wireless device (Paragraph 0088. Input rating value for received client identifier. A rating value for item identifier already recorded may be determined.);

e) replacing the previous rating with the rating in the packet, if the database is storing the previous rating, to prevent skewing of a composite rating for the "item" (Paragraph 0088. Rewrite rating value to the latest rating.); and

f) inserting the rating, the unique identifier, and the "item" identifier from the packet into the database, if the database is not storing the previous rating (fig. 6; paragraph 0088. Record rating value associated with client and item identifiers.).

16.   Sato teaches of submitting a rating for an "item", wherein the "item" may comprise various content (Paragraph 0052) but does not specifically teach that the "item" is a wireless device application.

17.   Ross teaches a system for collecting opinions of applications, wherein a type of rating and identity for a wireless device application are sent from a wireless device and stored on a server (col. 3, lines 21-25; col. 4, lines 1-7, 36-41; col. 5, lines 50-54).

18.   It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings for the "item" in which the rating is submitted as taught by Sato to comprise a wireless device application for the wireless device as taught by Ross, and to store the rating and identifier

of the wireless device application as taught by Ross. The combined teachings would yield a predictable result of increasing the amount of data collect regarding user preference and allowing Sato's system to increase recommended item information that is available for users including information for wireless device applications. Furthermore, because both references teach methods of collecting evaluation information, it would have been obvious to substitute an "item" of Sato with the wireless device application of Ross to achieve a predictable result of collecting evaluation information regarding the items. Lastly, Ross's method to provide rating for wireless device applications would ensure that users actually used or possessed certain items, which would increase the relevancy of feedbacks.

19.   As per claims 14 and 28, Sato teaches substantially the invention as claimed including a method and computer readable medium for obtaining a rating for a wireless device application, comprising the steps of:

a) receiving a rating for the "item" "from" a wireless device via an Internet web site (Paragraph 0063. Internet.. Paragraph 0212. input/output may be web pages.);

b) determining if a database is storing a previous rating for the "item" from the wireless device (Paragraph 0088. Input rating value for received client identifier. A rating value for item identifier already recorded may be determined.);

c) replacing the previous rating with the received rating, if the database is storing the previous rating, to prevent skewing of a composite rating for the "item" (Paragraph 0088. Rewrite rating value to the latest rating.); and

d) inserting the received rating, a unique identifier for the wireless device, and an "item" identifier for the "item" into the database, if the database is not storing the previous rating (fig. 6; paragraph 0088. Record rating value associated with client and item identifiers.).

20.   Sato teaches of submitting a rating for an "item", wherein the "item" may comprise various content (Paragraph 0052) but does not specifically teach that the "item" is a wireless device application and that the "item" is on the wireless device.

21.   Ross teaches a system for collecting opinions of applications, wherein a type of rating and identity for a wireless device application on a wireless device are sent to a server (col. 3, lines 21-25; col. 4, lines 1-7, 36-41; col. 5, lines 50-54).

22.   It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings for the "item" in which the rating is submitted as taught by Sato to comprise a wireless device application for the wireless device as taught by Ross, and to store the rating and identifier of the wireless device application as taught by Ross. The combined teachings would yield a predictable result of increasing the amount of data collect regarding user preference and allowing Sato's system to increase recommended item information that is available for users including information for wireless device applications. Furthermore, because both references teach methods of collecting evaluation information, it would have been obvious to substitute an "item" of Sato with the wireless device application of Ross to achieve a predictable result of collecting evaluation information regarding the items. Lastly, it would have been obvious to one of ordinary skill to combine the teachings to provide a rating for a wireless device application on the wireless device as taught by Ross, which would ensure that users actually used or possessed certain items, which would increase the relevancy of feedbacks.

23.   As per claims 3 and 17, Sato and Ross taught the method and computer readable medium of claims 1 and 15 of sending a rating for a wireless device application. Sato and Ross further teach wherein prior to the receiving step, comprises: (a1) displaying an option to submit the rating for the wireless device application (Sato: Paragraph 0058. User specifies an item and enters a rating.).

24.   As per claims 4 and 18, Sato and Ross taught the method and computer readable medium of

claims 1 and 18 of sending a rating for a wireless device application. Sato and Ross further teach wherein

the sending step (b) comprises: (b1) creating a packet comprising the rating, a unique identifier for the

wireless device, and an application identifier for the wireless device application (Sato: Paragraph 0084.

Send rating value, client identifier, and item identifier along with request.).

25.   As per claims 5 and 19, Sato and Ross taught the method and computer readable medium of the

method of claim 4. Sato further teaches: (b2) launching a mobile web session; and (b3) sending the

packet to the server (Paragraph 0084. Client transmits rating value along with request. Paragraph 0212.

Input/output may be web pages.).

26.   As per claims 6 and 20, Sato does not specifically teach the method of claim 4, further

comprising: (b2) sending the packet to the server utilizing an Application Programming Interface (API)

within the wireless device application.

27.   Russ teaches of providing user opinion of wireless applications, wherein software applications

comes with surveys and the application sends user opinion to a server (col. 1, lines 29-33. API is inherent

to interface with OS or communications protocol to communicate to a server.).

28.   It would have been obvious to one of ordinary skill in the art at the time the invention was made

to combine the teachings to the send packet to the server utilizing Application Programming Interface

(API) within the wireless device application, which would provide an interface for applications to be able

to communicate ratings to the server.

29.   As per claims 7 and 21, Sato does not specifically teach the method of claim 4, wherein the

packet further comprises free form text received by the wireless device.

30.   Russ teaches of providing user opinion of wireless applications, wherein the opinion may be based on a questionnaire with questions such as user like, dislike, likelihood to download another application, or any marketing questions known in the art (col. 5, lines 43-49).

31.   Sato and Russ do not specifically teach of "free form text". However, it is well known in the art that questionnaires usually provide options for additional comments, wherein a user may enter comments other than responses based on predetermined choices for answers. It would have been obvious to one of ordinary skill in the art to provide free form text in response to the questionnaire because free form text would allow the user of the application to provide descriptive user opinion regarding the application and provide feedback that is outside of choices of responses. This type of information would provide relevant and useful feedback information to the service provider and manufacturer.

32.   As per claims 8 and 22, Sato and Ross taught the method and computer readable medium of claims 4 and 18. Sato and Ross further teach the method comprising: (f) inserting the rating, the unique identifier, and the application identifier from the packet into the database, if the database is not storing the previous rating (fig. 6; paragraph 0088. Record rating value associated with client and item identifiers.).

33.   As per claims 9 and 23, Sato does not specifically teach the method of claim 1, wherein the determining step (d) comprises: (d1) determining that the wireless device owns the wireless device application.

34.   Ross teaches a system for collecting opinions of applications, wherein it is determined whether the wireless device owns the wireless device application (col. 4, lines 52-59. Detect registered software application on wireless device. col. 5, lines 50-54; col. 6, lines 8-12. Determine whether message is received by the handset. Server receives and determines opinion data only when wireless device has registered the application.).

35.   It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings to determine that the wireless device owns the wireless device application. The motivation for the suggested combination is that Ross' teachings would allow collection of opinions from users who have actually used the products, which would provide valuable marketing data (col. 1, lines 60-64; col. 2, lines 44-47).

36.   As per claims 11 and 25, Sato teaches the method and computer readable medium of claims 10 and 24, wherein the packet further comprises the unique identifier for the wireless device and the "item" identifier (Paragraph 0084. Client identifier and item identifier.). Sato does not specifically of an application identifier.

37.   Ross teaches a system for collecting opinions of applications, wherein user opinion data and application identifier are sent to a server (col. 5, lines 50-54).

38.   It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings to send the application identifier along with the client identifier, which would allow the server to keep records of applications and the applications' associated ratings submitted, and provide feedbacks associated with the applications.

39.   As per claims 12 and 26, Sato does not specifically teach the method and computer readable medium of claims 10 and 24, wherein the determining step (b) further comprises: (b1) determining that the wireless device owns the wireless device application.

40.   Ross teaches a system for collecting opinions of applications, wherein it is determined whether the wireless device owns the wireless device application (col. 4, lines 52-59. Detect registered software application on wireless device. col. 5, lines 50-54; col. 6, lines 8-12. Determine whether message is

received by the handset. Server receives and determines opinion data only when wireless device has

registered the application).

41.   It would have been obvious to one of ordinary skill in the art at the time the invention was made

to combine the teachings to determine that the wireless device owns the wireless device application. The

motivation for the suggested combination is that Ross' teachings would allow collection of opinions from

users who have actually used the products, which would provide valuable marketing data (col. 1, lines 60-

64; col. 2, lines 44-47).

Conclusion

42.   Applicant's amendment necessitated the new ground(s) of rejection presented in this Office

action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is

reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

43.   A shortened statutory period for reply to this final action is set to expire THREE MONTHS from

the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing

date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH

shortened statutory period, then the shortened statutory period will expire on the date the advisory action

is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX

MONTHS from the date of this final action.

44.   Any inquiry concerning this communication or earlier communications from the examiner should

be directed to Joshua Joo whose telephone number is 571 272-3966. The examiner can normally be

reached on Monday to Friday 7 to 4.

45.   If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor,

Nathan J. Flynn can be reached on 571 272-1915. The fax phone number for the organization where this

application or proceeding is assigned is 571-273-8300.

46.   Information regarding the status of an application may be obtained from the Patent Application

Information Retrieval (PAIR) system. Status information for published applications may be obtained

from either Private PAIR or Public PAIR. Status information for unpublished applications is available

through Private PAIR only. For more information about the PAIR system, see http://pair-

direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

/J. J./

Examiner, Art Unit 2154